

Serial No. 09/895234

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REMARKS/ARGUMENTS

Applicant requests the Examiner to reconsider and withdraw the finality of the Office Action because new grounds of rejection found in the Office Action were not necessitated by Applicant's amendments. In an office action dated July 29, 2003 (the "first office action"), the Examiner indicated claims 8, 9, 17, and 24 as reciting subject matter that would be allowable if the claims were rewritten in independent form including all of the limitations of the base claims and any intervening claims.

In a response filed October 29, 2003, Applicant amended independent claim 18 to incorporate the limitations of claim 24 and the intervening claims 22 and 23. Claim 18 as amended is, therefore, originally presented claim 24 rewritten in independent form to include the limitations of claim 18, 22, and 23.

In the present office action, the Examiner cites a new ground of rejection for claim 18 as amended. In addition, however, the Examiner indicated that Applicant's amendments necessitated the new ground of rejection. Applicant would respectfully submit that, because amended claim 18 merely recites limitations that were presented in original claim 24, Applicant's amendments cannot be cited as the reason for issuing the new ground of rejection.

The MPEP indicates unambiguously that "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). MPEP 706.07(a)" (emphasis added). Since the Examiner introduced a new ground of rejection that was

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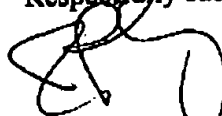
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not necessitated by Applicant's amendments, Applicant would respectfully request the Examiner to withdraw the finality of the rejection. See MPEP 706.07(c), 706.07(d).

Respectfully submitted,



Joseph P. Lally

Reg. No. 38,947

ATTORNEY FOR APPLICANT(S)

P.O. Box 684749

Austin, Texas 78768-4749

(512) 428-9872

(512) 428-9871 (FAX)

JPL/mm